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THE RELATIONS OF THE LEGISLATURE TO THE EXECUTIVE POWER IN CANADA

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The two English-speaking federal states which lie side by side in North America have a profound interest for each other. They have been built up by peoples of the same race, and of the same political traditions. Canada, the lesser and the younger, has been deeply influenced by the United States, the greater and the older. Federation became a vital question in Canada only in 1865 when the United States was emerging from a terrible civil war. This war had turned on a constitutional question,—whether a federated state might secede from the union. The framers of the Canadian system learned the lesson taught by the war, and, in the constitution which they drew up for Canada, they made it impossible for the provinces ever to regard themselves as sovereign communities with the right to political independence. Canada thus learned without bloodshed the lesson taught by the agony of her neighbor.

If along different paths the two systems thus attained to likeness, in other not less vital respects they still show differences. It is my purpose to-day to discuss only one of these differences. The American system is based upon the conception that no one branch of the government should be supreme, and that each should be held to its proper tasks. The President, the Senate, and the House of Representatives all possess real and independent power and, in the background, stands the Supreme Court ready to require all of them to obey the written constitution. In Canada there is no written constitution, in the American sense, with powers defined and limited, for the British North America Act, which established the Canadian system, clothes the Canadian Parliament in Canadian affairs with the vast undefined powers possessed by Parliament in the mother land. The Canadian Parliament can do practically anything it may choose. It can take away a man's property without giving him compensation; and it could even sentence the owner to death, without trial. Moreover the executive government has no independent power in Canada; so far

is it from being independent that it is created and controlled by Parliament. In the Parliament itself there is no balancing of powers. The popular or "lower" house controls the Senate. The head of the state has no veto power. Those familiar with the working of the Constitution of the United States will appreciate the vital difference between the American and the Canadian system if they picture the United States without a written constitution, and the House of Representatives as so absolute that it elects the President and appoints the members of the Senate. Let them add to this that the House of Representatives is elected not for two but for five years, if it chooses to sit so long, and that it can bring on an appeal to the people at any time.

A superficial parallel between the two systems may be dismissed at once. Since the Governor-General, as representing the King, is the head of the State in Canada, it is sometimes assumed that his office is not unlike that of the President in the United States. There is, indeed, one resemblance. On formal and ceremonial occasions the Governor-General and the President are the principal figures. But here the resemblance begins and ends. The Governor-General takes no part in the working of the executive government. He is not present at cabinet meetings. He has little to do but to register a formal approval of the measures submitted to him. His functions become of real moment only when it is clear that the ministry in office has lost the confidence of the people. Then, pending the taking of office by a new Cabinet, the Governor-General may play an important part by refusing assent to administrative measures proposed by his ministers. Except in such times of crisis, however, he has no real power, for he can do nothing except through a Prime Minister who will accept responsibility to Parliament for all action. Thus the person in the Canadian system who discharges the serious functions of the President in the American system is not the Governor-General but the Prime Minister.

Before I discuss further the relations between the legislature and the executive power in Canada let me ask what is the function of government. I suppose it is the making and enforcing of the laws, and the administration of public affairs,—in a word, its real tasks are to produce a good system, well administered. Government is a matter of business and the general principles which lead to success in business will probably lead to success in government. A vital aim in all business organization is to link complete authority

with complete responsibility. A great bank places its resources at the disposal of its officers and then holds them responsible for the proper use of this power. It would be futile to require results without also granting power. This business principle applied to national life means that those in executive control should have power while they remain in office. The head of a business house who was not allowed to carry out a policy regarded by him as vital would resign. Then some one would be called to his office who would do what those in control desired.

These business principles find place in the Canadian system of government. The Prime Minister has behind him the full authority of Parliament. If this authority fails him, he retires, and some one who has this support takes his office. In all except the leadership in social functions the Prime Minister has the powers of the President. He names the Cabinet and is responsible for all that is done by members of his Cabinet. He can summarily dismiss a cabinet minister. He has even more power than the President in appointing to office, since the President must secure the Senate's approval for his nominees to important posts, while the Prime Minister is not obliged to consult any one. Like the President the Prime Minister controls the military and naval forces. But the Prime Minister has other powers which go far beyond those of the President. He has complete control of finance; no vote of money can be made without his consent. He controls public legislation. He fills vacancies in the second chamber, the Senate. In him indeed is really vested the entire powers of government, legislative and executive. If a bad law is made, if money is misspent, if anything goes wrong in the administration of the government, no one can doubt who is responsible. It is the Prime Minister.

This predominance of the Prime Minister, this centralization of political authority in a single person, is a singular outcome of the working of modern democracy. Its cause is not far to seek; the people will trust only those whom they control. In Canada, as in Great Britain, the House of Commons is the only elected factor in the government. Both the Governor-General, representing the King, and the senators are appointed, the Governor-General for five years, the senators for life. The result is that the elective chamber retains all real power, and that the House of Commons rules with an unfettered sway. Under the British system, the head of the state and the "upper" house have thus lost all power but that of revision

and delay; in the United States, on the other hand, the power of the head of the state has tended steadily to increase, the second chamber remains the stronger of the two chambers in Congress, and the popular chamber is the weakest of them all. Each of the three elements, however, has retained the reality of power because all three are directly or indirectly chosen by the people. A more complete contrast to the evolution in Canada of the supremacy of a single chamber can hardly be imagined.

It may be asked whether the Prime Minister, possessing such powers, does not tend to become a despot. There is no doubt that in Canada, where one party remains in power for a long time, the dominance of a single person in each of the two great parties has been prolonged. This may be due to the striking personalities of the two leaders, Sir John A. Macdonald and Sir Wilfrid Laurier who, between them, have ruled Canada for about forty of the forty-four years during which the federal system has been in existence. President Madison laid down long ago the principle that the greater a political system becomes the fewer will be those who really control it. Thus a single person, the President of the United States, is given despotic power over the executive government for four years, and during this period he cannot be removed except for grave misconduct. No doubt the Prime Minister of Canada has very great power. His supporters in Parliament can, however, turn him out at a moment's notice, if they so choose. His sway over them is that of his influence and not of the legal security of his position. But while the members of the House of Commons can discipline him, he, in turn, can discipline them. It often happens that recalcitrant members are brought into line by the threat of the Prime Minister to resign or to bring on an election before it is really due. The uncertainty, expense, and labor which this will involve, are likely to cause any but a very determined person to yield.

Since the Prime Minister must retain control of the House of Commons, he chooses his Cabinet largely on account of the influence of its members in that House. A Cabinet in Canada is something entirely different from a Cabinet in the United States. When a President takes office, he is free to choose any one who is not a member of Congress to serve in his Cabinet. A Canadian Prime Minister, on the other hand, can have in his Cabinet only those who are members of Parliament. An American Cabinet consists of men called to office to administer great public offices, and it often happens that most of its members have taken little part in political life. In a Canadian

Cabinet, on the contrary, the members must be in close touch with political parties. As a rule it is the chief political figures in the dominant party who have seats in the Cabinet. If any of them are discontented they may play a real part in driving the Prime Minister from office. To retain their support he must often defer to their wishes. The consequence is that a cabinet minister is relatively a much more important person in Canada than is a cabinet officer in the United States. In Washington it would be regarded as promotion for a member of the Cabinet, except, perhaps, the Secretary of State, to give up his office in order to take a seat in the Senate. In Ottawa a place in the Cabinet takes primacy over all other political positions.

The centralization of authority in the hands of the Prime Minister gives unity and coherence in respect to finance. His government is responsible for taxation and legislation as well as for administration. A budget is prepared by the executive government setting forth full estimates both of income and of expenditure. This budget is discussed in the Cabinet, and cabinet ministers who wish a large outlay must first get the approval of the Minister of Finance who provides the necessary income. No vote of public money can be made by Parliament unless on specific recommendation of the Government. This is again in contrast with the system of the United States. The practise there in respect to the Budget is, no doubt, undergoing rapid change, but still, almost in studied contrast with the British system, the second chamber can insert at will new items and vote great sums even over the veto of the President. The strict control of the Budget in Canada by the executive does not of course prevent extravagant expenditure, but it does, at least, ensure that a government shall know what it is doing. When the man who agrees that money shall be spent must also agree to furnish it, there is likely to be some searching of heart before increased expenditure is permitted.

The centralized control of the Prime Minister brings one very real benefit. If the executive government thinks that legislation is necessary it can guarantee that it will be enacted. Two difficulties are much discussed in the United States at the present time. One is that the divorce between the executive and the legislative power makes it hard for the executive to secure needed changes in the law. When this is the case the courts are tempted to read into the law a meaning not really to be found there, and thus to usurp the legislative power. The other difficulty is that, under the system of checks and balances, it is often doubtful whether a legislature has the legal right to do what

it may think necessary. Neither difficulty has arisen in Canada. The executive government is always in harmony with the legislature, and can thus readily secure changes in the law, and the power of Parliament is so great that its jurisdiction is rarely questioned.

There is little doubt that if, to meet a crisis, a Prime Minister made sweeping proposals, his followers in the Commons would stand by him, for they are under strict party discipline. This discipline is necessary, since the executive government depends for its existence from day to day upon keeping a majority in the House of Commons. The members of the party are expected to follow their leader. The independent member, as Lord Melbourne once said, is the member who cannot be depended upon, and he does not find favor with political leaders. A head of a government has means of punishing a member who may be slack in his support. He can deprive him of the exercise of the government patronage in his district, and a member who loses this is likely quickly to become unpopular with an active section of his followers, and to imperil his re-election.

The control of the Prime Minister tends also to lessen the power of merely local interests. A member of the House of Representatives, of the United States must reside in his state, and it is almost an unwritten law that he must reside in his district. If he is to continue to represent it, he must, while in Congress, make its special interests his chief care. He is usually ready to support other sectional interests, if these, in turn, will support him, and he is not held in check by an executive government which controls a majority in the House. In Canada, on the other hand, a member of the Commons is under no obligation to reside even in the province where his constituency lies. Sectionalism, though a strong and a growing power, is held in check by this provision, and also by the impotence of a private member to force local interests upon the attention of a powerful government which can easily control a majority against him. The private member of Parliament in Canada might well envy, indeed, the greater liberty and authority of a member of Congress. Since the votes of members of Congress can lead to no change in the administration, they feel free to use them in any way that may serve the special interests which they represent. While Congress sits, a member must be always on duty, for his vote is always of some moment. In Canada, where the individual member can do less, he may be rarely in his place without any real loss to his constituents. The government has

announced its programme at the beginning of a session and is not likely to support any other important measures.

If a new issue comes up in Canada, even a powerful government may be forced to stake its existence on an appeal to the people. The recent Reciprocity negotiations furnish a cogent illustration of the different workings of the two federal systems. No mention was made of Reciprocity with Canada as a part of Mr. Taft's policy when he was elected President of the United States in 1908, nor was it an issue in Canadian politics during the election of the same year. Suddenly Mr. Taft proposed to Canada a sweeping reciprocity in trade. He urged his measure upon the Congress of the United States and, after a prolonged struggle, it was adopted. Mr. Taft's proposals were approved by the Liberal government in Canada. But, when opposition appeared, Sir Wilfrid Laurier made no attempt to force the measure through the Canadian Parliament. It was clear that, on an issue so important, the people must be consulted, and, in due course, the people gave their verdict. The Liberals were defeated, and the penalty of defeat was the complete loss of political power. It is not impossible that the people of the United States would have condemned Mr. Taft's proposals, had they been called upon to give a verdict, but the constitution does not provide for such an appeal to the people. No proposals made by Mr. Taft imperilled his tenure of office for his full term, while in Canada the defeat of the proposals involved an immediate, vast and far-reaching change in the whole executive government.

No doubt the Canadian system is far from being ideal. The Prime Minister must find his administrators among those who sit in Parliament. The qualities that make a successful politician are not necessarily, however, those which make a successful administrator. When a President of the United States forms a Cabinet, he may choose the ablest men in the country to serve him. Since they are not politicians but administrators, they are free to give their whole time to their tasks, and are not hampered by the irksome duty of taking part in the proceedings of Congress. Occasionally, it is true, a Prime Minister in Canada may choose a Cabinet Minister who possesses high administrative powers but has not sat in either house. But a seat must then be found for him and, to be permanently successful, he must learn the arts of the politician. Thus in Canada the field for choice for members of the Cabinet is limited to some three hundred men who sit in Parliament. Without doubt an American Cabinet,

chosen in a freer way, usually represents a higher average of administrative capacity than a Canadian Cabinet.

Another defect of the Canadian system is that the Prime Minister is loaded with such extensive responsibilities that he cannot discharge them adequately. He may be held to account for everything that is done. If incompetence or corruption are found in any department the blame is his. But, while this is the case, there is, as yet, in Canada, no machinery through which he can have adequate supervision of the work of the different departments. In Great Britain the same difficulties have arisen and have been met by giving to the Treasury a measure of control over the outlay in all departments. It supervises contracts, raises questions in regard to prices, and tries to prevent corruption and waste. One improvement that ought to be made in the near future in Canada is the creating of some effective control of this kind.

In Canada the future is likely to see increased emphasis upon the control of the executive by Parliament. In the United States, on the other hand, increased emphasis is being laid upon the independent authority of the President as representing the real mind of the nation. As matters now stand the President of the United States may be elected to carry out a certain policy, only to find himself helpless before a Congress which will not obey him. He may control one chamber of Congress but may be reduced to impotence by failure to control the other. He may give pledges in regard to policy, only to find that he cannot redeem them. He may preach economy and an extravagant Congress may make reckless votes of public money. No doubt the American people will find their own solution of these difficulties in their system. While that of Canada presents difficulties of its own, the people of Canada are well content with the union of the legislative and the executive power. It is the system which the mother of Parliaments has matured as a result of the buffetings of many centuries. It is the system which has at last given to troubled France political stability which she failed to secure by many experiments of a different nature. Canada has not yet learned to make a use of the system as effective as that in England. But already it is working satisfactorily in Canada, and it is likely to develop in such a way as to become steadily more effective.